



# WYOMING DEPARTMENT OF CORRECTIONS

## Policy and Procedure #1.218 Employee Performance Management

Page 1 of 15

<b>Authority:</b> Wyoming Statute(s): 25-1-104; 25-1-105  ACA Standard(s): <u>ACI</u> -4-4048; 4-4049; 4-4064; <u>2-CO</u> -1C-01; 1C-02; 1C-03; 1C-04; 1C-21; <u>4-APPFS</u> -3E-02; 3D-17	<b>Effective Date:</b> August 15, 2015 <b>Revision/Review History:</b> 04/01/14 04/15/13 12/19/11  <b>Summary of Revision/Review:</b> Updates existing policy pursuant to annual review.
<b>Cross Reference of Policy:</b> P&P 1.215, <i>Code of Ethics</i> ; P&P #1.006, <i>Employee Contact With Inmate and Offenders</i> ; P&P #3.402, <i>Protection from Sexual Misconduct Against Offenders</i>	<b>Supersedes Existing Policy :</b> P&P #1.218, <i>Delegation of Authority: Discipline and Personnel Actions</i> , dated 12/19/11 P&P #1.218, <i>Personnel Administration and Delegation of Authority</i> dated 03/4/14
<b>Approved:</b>  R.O. Lampert Robert O. Lampert, Director	
7-21-15 Date	

### REFERENCE

1. ATTACHMENTS

- A. WDOC Form #177.1, *Recommendation for Probationary Dismissal*
- B. WDOC Form #177.2, *Non-Permanent Employee Counseling Form*
- C. WDOC Form 177.3, *Permanent Employee Counseling*

2. OTHER – None Noted



WYOMING DEPARTMENT OF CORRECTIONS	Policy and Procedure #1.218	Page 2 of 15
		Employee Performance Management

## I. PURPOSE

- A. **Employee Management.** The purpose of this policy is to provide guidelines for employee performance and conduct. WDOC uses progressive discipline for permanent employees, to provide a structured corrective action process to improve and prevent recurrence of undesirable employee behavior and performance issues. Progressive discipline used by WDOC was designed to be consistent with the agency's organizational values, human resource (HR) best practices and employment laws. Probationary, temporary, appointed positions are at-will and subject to dismissal at any time with or without cause.
- B. **Disciplinary Authority.** The purpose of this policy is to delegate disciplinary authority from the Director of the Wyoming Department of Corrections (WDOC) to designated management employees pursuant to Chapter 1, Section 4(b)(i) of the *State of Wyoming Personnel Rules* and to provide for a delegation of authority for other performance management corrective actions that may be taken by designated management or supervisory employees.

## II. POLICY

- A. It is the policy of the WDOC to provide for a safe and secure workplace that strives to ensure all individuals associated with the agency are treated in a respectful and fair manner. Though it is not possible to list all forms of behavior considered unacceptable in the workplace, this policy will provide examples of behavior(s) that would be considered infractions of WDOC rules of conduct.
1. WDOC personnel procedures shall be equitably administered and enforced, practiced with consistency, and shall support a non-discriminatory work environment and equal employment opportunity. The Department shall ensure that employees have access to an internal grievance process consistent with applicable law and rule. (ACA 2-CO-1C-02) Grievance procedures will be administered in accordance with the State of Wyoming Personnel Rules.
  2. The Department shall adhere to professional and ethical standards, including but not limited to WDOC Policy and Procedure #1.215, *Code of Ethics*; WDOC Policy and Procedure #3.402, *Protection from Sexual Misconduct Against Offenders*; WDOC Policy and Procedure #1.006, *Employee Contact With Inmate and Offenders*, that will govern its relationships with the public, employees, and offenders; promote a safe and humane work environment; afford courteous and respectful treatment;



WYOMING DEPARTMENT OF CORRECTIONS	Policy and Procedure #1.218	Page 3 of 15
		Employee Performance Management

require diligent performance; and the responsible use of state resources. The Department shall establish and enforce policies and procedures consistent with such standards. (ACA 2-CO-1C-04)

- B. **Disciplinary Delegation of Authority.** It is the policy of WDOC that designated management employees are authorized to act on the Director's behalf when issuing disciplinary actions to permanent employees, as outlined in this policy. Supervisory employees are authorized to issue corrective actions for permanent employees in accordance with the *State of Wyoming Personnel Rules* and this policy.
- C. **Other Authorized Administrative Actions.** It is the policy of WDOC that designated management employees are authorized to act on the Director's behalf in taking administrative actions.
- D. **Uniform Personnel Standards.** WDOC shall create and administer procedures which ensure the agency's personnel practices comply with all applicable state and federal laws. These procedures shall establish a professional and ethical standard for the recruitment, selection, retention and promotion of qualified individuals. They shall serve as a guide for the appropriate management of employee services, benefits, and relations.
  - 1. These policies, procedures and practices shall govern employee-management relations. (ACA 2-CO-1C-03)

### III. DEFINITIONS

- A. **At-Will Employees:** (*For this policy only.*) Those employees who have no expectation of continued employment may be dismissed at any time without cause or reason, including those staff appointed by and serving at the pleasure of the Governor or Director (executive, special appointments, and those designated as career service), probationary employees, temporary or seasonal employees, those employed pursuant to at-will contracts, attorneys, interns, and emergency employees.
- B. **Corrective Action:** (*For this policy only.*) Action taken with the intent to correct deficient behavior and ensure proper training and performance.
- C. **Designated Management Employees:** (*For this policy only.*) Deputy Director, Division Administrators, Deputy Division Administrators and Wardens.
- D. **Disciplinary Action:** (*For this policy only.*) An employment action taken for cause in accordance with the *State of Wyoming Personnel Rules* against an



employee who failed to abide by State or Department standards, policies or rules.

- E. **Dishonesty:** Deceitfulness shown in someone's character or behavior; providing a false statement or information. Types of dishonesty include lying, omitting information, distorting information, minimizing mistakes, exaggerating issues and fabricating information.
- F. **Insubordination:** Defiance of authority; refusal to obey orders or the willful failure to obey a supervisor's lawful orders. Insubordination includes: refusal to do an assigned job, refusal to work overtime when required, refusal to render assistance, insolent response to a work order, or delay in carrying out an assignment.
- G. **Servicing Human Resources Office:** The human resources office which prepares and distributes payroll for an employee and provides other human resources services.
- H. **Supervisory Employees:** *(For this policy only.)* Those employees having direct supervisory and formal performance evaluation responsibility over subordinate employees.
- I. **Unsatisfactory Work Performance:** A gap between the employee's actual performance and the level of performance required by the agency. There are three basic types of poor performance: unsatisfactory work content — in terms of quantity, quality, etc.; breaches of work practices, procedures and rules — such as breaching occupational health and safety requirements, excessive absenteeism, theft, harassment of other employees, etc; and employees' personal problems — usually 'off-the-job' issues that affect their performance at work.

#### IV. PROCEDURE

- A. **Personnel Policy Manual.** WDOC considers our employees to be one of its most valuable resources. The Personnel Policy Manual shall serve as a guide for the employer/employee relationship. The procedures, practices, policies and benefits described in the manual may be modified or discontinued at any time without prior notice. CEOs are responsible for ensuring any changes are communicated to staff.
  - 1. A personnel policy manual shall be available for employee reference and shall cover at a minimum the following areas: (ACA 4-4048; 2-CO-1C-01; 4-APPFS-3E-02)



- i. Organization chart (table of organization);
    - ii. Recruitment and promotion, including equal employment opportunity provisions;
    - iii. Job descriptions and qualifications, including salary determinations;
    - iv. Physical fitness policy;
    - v. Benefits, holidays, leave, and work hours;
    - vi. Personnel records and employee evaluations;
    - vii. Staff development, including in-service training;
    - viii. Retirement, resignation, and termination;
    - ix. Employee-management relations, including disciplinary procedures and grievance and appeals procedures;
    - x. Sexual harassment and hostile work environment prevention;
    - xi. Equal employment opportunity provisions;
    - xii. Statutes relating to political activities; and
    - xiii. Insurance/professional liability requirements.
  2. New staff shall also be informed in writing of the department's hostage policy (WDOC Policy and Procedure #3.014, *Crisis Negotiation*) in regard to staff roles and safety.
  3. All administrators and wardens shall review the agency's internal personnel policies annually by June 30<sup>th</sup> of each calendar year. A written report of any recommended changes that are relevant to WDOC policy and procedure shall be submitted to the Director. (ACA 4-4049)
- B. Performance Management Instrument (PMI).** Performance evaluations are an ongoing process starting with Performance Planning, conducting Workplace Coaching and completing the annual evaluation. Reviews should be objective and based on how the employee performed the Core



Competencies within the established Target Range and completion of established goals for the evaluation period. Each employee shall receive an annual written performance review that is based on defined criteria, and the results shall be discussed with the employee. This review includes an appraisal of the knowledge, skills, and abilities that are required for each employee's job assessment, and identification of additional education or training that is needed. (ACA 4-4064; 2-CO-1C-21; 4-APPFS-3D-17)

1. WDOC has established target ranges based on length of service in the classification and whether the employee is in a supervisory and/or executive role. Supervisors shall use the WDOC established target ranges.
2. Supervisors shall comment on any performance or behavioral issues in the PMI and provide constructive feedback for the employees they supervise. Corrective or disciplinary actions taken during the evaluation period should be noted in the PMI.
3. PMIs are completed in accordance with the State of Wyoming Personnel Rules, Chapter 9. Failure of any employee to complete their responsibilities for PMI may result in disciplinary action up to and including dismissal. The behavior will also be noted in that employee's performance evaluation.

**C. Performance and Conduct Issues.** WDOC has established general guidelines to govern the conduct of its employees through WDOC Policy and Procedure 1.215, *Code of Ethics*. Employees are expected to report conduct violations; however, employees who knowingly make false reports will be subject to appropriate corrective action. No list of rules can include all instances of conduct that may result in discipline, and the examples below do not replace sound judgement or common-sense behavior. Examples of conduct that could result in disciplinary action up to and including dismissal include:

1. Subjecting offenders, employees, and civilians to sexual, emotional, or physical abuse, or the use of unnecessary levels of force;
2. Unauthorized use, possession, destruction or waste of property or business systems belonging to the department, an offender, an employee, or a civilian.
3. Falsification, unauthorized alteration, or destruction of documents, log books, reports and other records, including job applications and time records; failure to properly complete required reports; copying WDOC documents for personal use;



<b>WYOMING DEPARTMENT OF CORRECTIONS</b>	<b>Policy and Procedure #1.218</b>	<b>Page 7 of 15</b>
		<b>Employee Performance Management</b>

4. Altering one's paycheck in any manner;
5. Fighting with, threatening, coercing or attempting bodily injury to another employee, offender, or civilian on State premises; Bullying behavior which includes the following, but is not limited to:
  - i. Verbal Bullying. Slandering, ridiculing or maligning a person or his or her family, persistent name calling that is hurtful, insulting or humiliating, using a person as butt of jokes, and abusive/offensive remarks;
  - ii. Physical Bullying. Pushing, shoving, kicking, poking, tripping, assault, or threat of physical assault, damage to a person's work or property;
  - iii. Gesture Bullying. Nonverbal threatening gesture, glances that can convey threatening messages; and
  - iv. Exclusion. Socially or physically excluding or disregarding a person in work-related activities.
6. Visiting, loitering, loafing, lounging, or sleeping during scheduled work time, or leaving one's work area/post assignment during work time without permission from a supervisor;
7. Working unauthorized overtime;
8. Failure to meet WDOC work standards in terms of quality and quantity; interfering with another employee's efforts to meet WDOC work standards;
9. Violation of sanitary or safety rules; tampering with or mishandling equipment; failure to report injuries, damage to or an accident involving State motor vehicles and/or equipment;
10. Failure to work the assigned schedule, mandatory shift assignment or overtime; No Call/No Show; quitting early without notification or permission; not following policy or procedure on notification of absenteeism or tardiness; unauthorized use of leave; and improper use of break periods;
11. Failure to comply with licensure or certification requirements; and



12. Demonstrating a blatant disregard for WDOC policy and procedure or any other behavior which violates state of Wyoming rules, policies, or procedures as well as any action which violates federal and state law.

**D. Progressive Discipline.** Outlined below are the steps of WDOC's progressive discipline procedure for permanent employees. This procedure will be in compliance with State of Wyoming Personnel Rules; Ch. 7. WDOC reserves the right to skip steps depending on the facts of each situation and the nature of the offense. Conduct of any type which agency management considers serious may result in a disciplinary suspension or dismissal without taking prior disciplinary steps. The level of disciplinary intervention may also vary. Factors considered are whether the offense is repeated despite coaching, counseling or training, the employee's work record, and the impact the conduct and/or performance issues have on the agency.

1. **Types of Corrective Action.** Corrective actions may be used by any WDOC supervisor to correct initial performance problems, misconduct or policy violations. Corrective actions are intended to bring attention to behavior in an attempt to prevent reoccurrence. Corrective action includes any of the following:

- i. **Documented Verbal Counseling.** Supervisor shall use WDOC Form 177.3, *Permanent Employee Counseling* for a documented verbal counseling.
- ii. **Letter of expectation.** A letter of expectation shall be used when a supervisor wants to ensure the employee has a clear understanding of his/her expectations. Supervisors are expected to clearly describe employee expectations and steps needed to improve performance to resolve the problem.
- iii. **Written Counseling.** A written counseling shall be used when the supervisor believes the employee has a clear understanding of his/her expectations but the employee fails to behave in such a manner. Supervisors are expected to clearly describe the unacceptable performance or behavior, employee expectations, and steps needed to improve performance to resolve the problem.

2. **Procedures for Corrective Action.** The following procedures shall apply for the preparation, review, and administration of all corrective actions identified in Section IV.E. above.

- i. Supervisory employees shall ensure the following steps are taken, in the sequence listed:





- a. Thoroughly investigate all facts and circumstances of the infraction(s) for which corrective action is sought.
    - b. Collaborate with the Servicing Human Resources Office, submit all supporting documentation, to include investigative reports and determine appropriate level of action warranted. Prepare and submit a draft of the proposed action to the Servicing Human Resources Office for approval prior to meeting with the employee.
  - ii. The Servicing Human Resources Office shall ensure the following is completed:
    - a. Collaborate with the supervisor to ensure compliance with all applicable laws, policies and rules;
    - b. Review the draft and supporting documentation and notify the CEO of the proposed action;
    - c. Approve the final document prior to the supervisor meeting/delivering to the employee; and
    - d. Place the final document in the employee's personnel file.
- 3. **Types of Discipline.** When an employee fails to promptly correct any performance, misconduct, or behavior issues through corrective action WDOC will take a more formal approach to address the undesired behavior(s). When employee performance and behavior problems are serious, disciplinary action may be taken without prior corrective action.
  - i. **Written Reprimand.** The initial step in formal discipline.
    - a. CEOs, Central Office Program Managers and Field Services District Managers/Supervisors are authorized to issue Written Reprimands.
  - ii. **Disciplinary Suspensions without Pay.** The intermediate step in formal discipline. Only designated management employees, as defined in this policy, are authorized to administer this type of discipline. The Director shall be notified in advance of the issuance of disciplinary suspensions without pay.



- iii. **Dismissal.** The final step in formal discipline. Only designated management employees, as defined in this policy, are authorized to administer this type of discipline. The Director shall be notified in advance of letters of intent to dismiss, and letters of dismissal.

**4. Procedures for Disciplinary Actions.** The following procedures shall apply for the preparation, review, and administration of all disciplinary actions identified in Sections IV.E.3 above.

- i. Designated management employees, as defined in this policy, shall ensure the following steps are taken, in the sequence listed:
  - a. Thoroughly investigate all facts and circumstances of the infraction(s) for which discipline or other authorized action is sought.
  - b. Collaborate with the Servicing Human Resources Office, submit all supporting documentation, to include investigative reports, and determine appropriate level of action warranted. Prepare and submit a draft of the proposed action to the Servicing Human Resources Office for approval prior to meeting with the employee.
  - c. The Servicing Human Resources office will submit a draft of proposed actions to the WDOC Human Resources Manager with all supporting documentation.
- ii. The WDOC Human Resource Manager shall, upon receiving the draft of proposed actions and supporting documentation:
  - a. Notify the Division Administrator of the proposed action(s);
  - b. Review the draft and supporting documentation and coordinate the proposed action with the Attorney General's Office-Personnel Section;
  - c. Ensure the Director is notified of actions as required by this policy;
  - d. Collaborate with the CEO and Servicing Human Resources Office and assist them in completion of the final action.



<p align="center"><b>WYOMING DEPARTMENT OF CORRECTIONS</b></p>	<p align="center"><b>Policy and Procedure #1.218</b></p>	<p><b>Page 11 of 15</b></p>
		<p><b>Employee Performance Management</b></p>

- (1) The Servicing Human Resources Office shall ensure final/signed copies of all disciplinary and other administrative actions are provided to the WDOC Human Resources Manager.
  - iii. **Attorney General Review.** None of the disciplinary actions listed in this section may be issued without prior review by the Personnel Section of the Wyoming Attorney General's Office.
6. **Grievances.** In accordance with *State of Wyoming Personnel Rules*, Ch. 8, a permanent employee has the right to present a grievance in response to receiving progressive discipline. The employee and managers are responsible for following all procedural requirements as outlined in the *State of Wyoming Personnel Rules*, Ch. 8. (ACA 2-CO-1C-02)
- i. In the event the employee has a grievance he/she must submit the grievance in writing to the manager and the Director.
  - ii. If an employee submits a grievance outside of the timelines then the matter will not be reviewed.
  - iii. If an employee submits a grievance that does not fit the definition of a grievance, as defined in the *State of Wyoming Personnel Rules* Ch. 8, then the employee will be notified in writing that this is not a grievable matter.
  - iv. All grievances must be processed through the WDOC Central Office Human Resources office.
- E. **Personnel Administrative Actions.** The following actions may be taken to protect the health and safety of all employees, when there is concern for disruption to operations within the agency, or when there is reasonable doubt concerning the employee's ability to perform effectively.
1. **Administrative Review Leave (ARL).** This policy delegates authority and establishes procedures for designated management employees to place employees on paid or unpaid ARL, pursuant to the provisions of Chapter 6, Section 15 of the *State of Wyoming Personnel Rules*.
    - i. Designated management employees, as defined in this policy, shall ensure the following steps are taken, in the sequence listed, for placing employees on ARL.



- a. Validate that the employee has been charged with or is under investigation for the commission of a crime, or that the employee's presence on the job may be detrimental to the operation of the agency if allegations of misconduct have been made and/or confirmed, or that the employee's continued presence on the job may be detrimental to the safety, security, or good order of the facility or office.
  - b. Prepare and submit a draft ARL letter, to the WDOC Human Resources Manager.
  - c. Ensure delivery of the ARL letter to the employee once approved by the WDOC Human Resources Manager.
  - d. Establish internal procedures to monitor the thirty (30) day expiration of the ARL and prior to expiration, determine whether the leave should be extended, the employee returned to duty, or disciplinary action taken.
- ii. The WDOC Human Resources Manager shall:
  - a. Review the draft and supporting documentation and coordinate the proposed action with the Attorney General's Office-Personnel Section; and
  - b. Advise the Servicing Human Resources Office of any changes made by the Attorney General's Office and affirm that the letter may be issued.
- iii. **Off-Hours Placement on ARL.** When situations arise outside of normal business hours and the designated management employee is not immediately available to initiate the steps outlined above, the ranking on-site supervisor shall contact the designated management employee and advise them of the situation. The designated management employee may verbally approve relieving the employee from duty and immediately upon reporting for duty and shall initiate the actions outlined in Section IV.E.2 and IV.F.1, above.
- iv. **Extension of ARL.** If the employee cannot be returned to duty within the thirty (30) day provisions of ARL, the Director must submit a request for extension to the A&I Human Resources Division (HRD) Administrator. The WDOC Human Resources



WYOMING DEPARTMENT OF CORRECTIONS	Policy and Procedure #1.218	Page 13 of 15
		Employee Performance Management

Manager will ensure the extension request is processed in accordance with the State of Wyoming Personnel Rules.

- v. **Return to duty.** Upon determination the employee can be returned to duty, the Servicing Human Resources Office shall prepare a written notice directing the employee's return and take necessary steps to ensure the employee's timely receipt of the notice.

**2. Dismissal of a Probationary Employee.** Dismissal of a probationary employee shall be in accordance with Chapter 11 of the *State of Wyoming Personnel Rules*.

- i. The designated management employee, through collaboration with the Servicing Human Resources Office, shall ensure the completion of WDOC Form #177.1, *Recommendation for Probationary Dismissal*, and submit to the WDOC Human Resources Manager, along with any supporting documentation, for review.
- ii. The WDOC Human Resources Manager shall follow the procedures of Section IV.E.5. of this policy when processing a recommendation for probationary dismissal.
- iii. Note: *A non-permanent employee is an at-will employee who has no expectation of continued employment and may be dismissed at any time without cause or reason. The inclusion of probationary language in this policy in no way alters a probationary employee's at-will status and they have no expectation of continued employment.*

**3. Termination of an AWEC.** Termination of an AWEC shall be in accordance with the terms of the contract.

- i. Note: *An AWEC is an at-will employee who has no expectation of continued employment and may be dismissed at any time without cause or reason. The inclusion of probationary language in this policy in no way alters the AWEC's at-will status and they have no expectation of continued employment.*

**4. Involuntary Reassignment.** Involuntary reassignment shall be in accordance with Chapter 2, Section 9 of the *State of Wyoming Personnel Rules*.



- i. The designated management employee shall follow the procedures of Section IV.E.5.i. of this policy when processing an involuntary reassignment.
  - ii. The WDOC Human Resources Manager shall follow the procedures of Section IV. E. 5. ii. of this policy when reviewing and processing an involuntary reappointment.
5. **Attorney General Review.** None of the personnel administrative actions listed in this section may be issued without prior review by the Personnel Section of the Wyoming Attorney General's Office.

**E. Additional Requirements**

1. **Absence of the Warden.** In the event a Warden is on an extended absence (*i.e.*, two (2) or more days), Deputy and Associate Wardens are authorized to take disciplinary action as defined in Section IV.E.1 and IV.E.3. of this policy. Deputy and Associate Wardens must ensure all procedural requirements are followed.
2. **Incident Review or Serious Incident Review Corrective Action Plans.** Any action recommended by a designated management employee through an Incident Review (IR) or Serious Incident Review (SIR) and included in a Corrective Action Plan must follow the procedures of this policy and be approved by the Director before it is issued to the employee.
  - i. Supporting documentation for any of the above mentioned actions that are being recommended as the result of either an internal or IU investigation shall include the corrective action plan which has been reviewed and approved by the Director.
  - ii. In the event that any of these actions are being recommended prior to the completion and approval of a corrective action plan by the Director, the recommendation shall clearly note that an investigation has substantiated the violation(s) and the corrective action plan will contain the recommended action. These actions shall still be reviewed and approved by the Director.

**V. TRAINING POINTS**

- A. Who has authority to prepare and issue formal discipline?
- B. Are investigations required before disciplinary or corrective action is taken?



<b>WYOMING DEPARTMENT OF CORRECTIONS</b>	<b>Policy and Procedure #1.218</b>	<b>Page 15 of 15</b>
		<b>Employee Performance Management</b>

- C. Under what circumstances can an employee be placed on Administrative Review Leave?